

| | | |
|---|------------------------------------|---------------------|
| MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE | EFFECTIVE DATE 07/09/07 | NUMBER 01.01.140 |
| SUBJECT INTERNAL AFFAIRS | SUPERSEDES 01.01.140 (10/18/99) | |
| | AUTHORITY 791.203 | |
| | ACA STANDARDS NONE | |
| | PAGE 1 OF 4 | |

POLICY STATEMENT:

The Internal Affairs Division is a vital component of an integrated investigative system within the Department, complementing the investigative staff at the work site and the administrative investigative responsibilities of the Bureau of Human Resources in the Operations Support Administration.

RELATED POLICIES:

- 02.03.100 Employee Discipline
- 02.03.109 Discriminatory Harassment
- 03.02.130 Prisoner/Parolee Grievances
- 03.03.140 Prohibited Sexual Conduct Involving Prisoners

POLICY:

GENERAL INFORMATION

- A. For purposes of this policy, "employee" includes contractual employees.
- B. For purposes of this policy, the work site administrator shall be the Warden or, for non-institutional sites, the highest ranking supervisor, except that in Central Office the work site administrator shall be the appropriate Executive Policy Team (EPT) member.
- C. The Administrator of the Internal Affairs Division shall coordinate the investigation of all cases under the jurisdiction of the Internal Affairs Division which are referred to the Michigan State Police or a local law enforcement agency for criminal investigation. All Department employees shall assist and cooperate with Internal Affairs and law enforcement staff conducting an investigation and ensure a prompt and thorough response is provided to any request made relating to the investigation, consistent with Department policy. This provision is not intended to place any duty on an employee contrary to law or to limit an employee's right under a collective bargaining unit agreement, Civil Service rule, or state or federal law.

CASES WITHIN THE JURISDICTION OF THE INTERNAL AFFAIRS DIVISION

- D. The Internal Affairs Division has jurisdiction to investigate the following allegations against employees, subject to Paragraph F:
 - 1. Staff sexual misconduct, which is defined as a sexual act directed by an employee toward a prisoner, including any of the following:
 - a. An attempted, threatened, or requested sexual act or helping, advising, or encouraging another employee to engage in a sexual act.
 - b. The intentional touching, either directly or through clothing, of a prisoner's genitals, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify the sexual desire of any person.

| | | | |
|-----------------------------------|----------------------------|---------------------|-------------|
| DOCUMENT TYPE POLICY DIRECTIVE | EFFECTIVE DATE 07/09/07 | NUMBER 01.01.140 | PAGE 2 OF 4 |
|-----------------------------------|----------------------------|---------------------|-------------|

- c. Invasion of privacy for sexual gratification, indecent exposure, or voyeurism.
- 2. Staff overfamiliarity, which is defined as conduct between an employee and a prisoner which has resulted in or is likely to result in intimacy, including but not limited to a kiss or a hug, or a close personal or non-work related association.
- 3. Conduct which, if found to be true, would constitute a felony or misdemeanor, including a violation of MCL 257.625 "Operating a Motor Vehicle While Intoxicated or Visibly Impaired"; this does not include traffic misdemeanors.
- 4. Infraction of a work rule or policy where the magnitude is such that the integrity of the Department has been undermined.
- 5. Conduct which, if found to be true, would likely result in the employee being discharged from employment pursuant to PD 02.03.100 "Employee Discipline".
- E. The Internal Affairs Division also has jurisdiction to investigate the following if it is determined, after review by the Administrator of the Division, to potentially involve employee misconduct:
 - 1. Death of an incarcerated offender unless the death was due to natural causes; however, a death due to natural causes falls within the jurisdiction of the Internal Affairs Division if the death occurred under unusual circumstances.
 - 2. An escape or escape attempt from a Correctional Facilities Administration institution.
 - 3. An incident considered "high profile" or capable of drawing substantial media attention.
- F. Employee allegations of discriminatory harassment against another employee which do not constitute criminal conduct, and allegations of equal employment opportunity or civil rights violations, shall be administered by the Office of Equal Employment Opportunity and Recruitment in the Bureau of Human Resources, Operations Support Administration. Allegations involving violations of collective bargaining unit contract provisions shall be administered by the Labor Relations Section in the Bureau of Human Resources. The Director, however, may assign the Internal Affairs Division to lead or assist in any Department investigation involving allegations of employee misconduct.
- G. Generally, allegations concerning the conduct of offenders are not investigated by the Internal Affairs Division unless it involves allegations of employee misconduct which fall within the jurisdiction of the Division. The Director, however, may assign the Internal Affairs Division to lead or assist in any Department investigation involving offender conduct. All allegations of prisoner misconduct are to be administered in conformance with PD 03.03.105 "Prisoner Discipline".

REFERRAL OF CASES TO INTERNAL AFFAIRS DIVISION

- H. All allegations of conduct which fall under the jurisdiction of the Internal Affairs Division shall be referred to the Internal Affairs Division as set forth in this section. This includes allegations made during the course of an investigation by other Department staff and allegations by offenders, whether verbally or in writing, provided the allegations contain facts rather than mere assertions or rumor. The worksite administrator or designee shall ensure that allegations which contain only mere assertions or rumors are appropriately investigated and referred to the Internal Affairs Division if the allegations are subsequently determined to fall within its jurisdiction. If questions arise as to whether a case should be referred to the Internal Affairs Division, the worksite administrator or designee shall contact the Administrator of the Internal Affairs Division for guidance on how to proceed.
- I. The work site administrator or designee shall immediately notify the appropriate EPT member or designee by telephone or pager, including after normal business hours, if an employee is alleged to be involved in criminal activity of a major magnitude; e.g., a death with obvious homicide overtones; sexual

| | | | |
|-----------------------------------|----------------------------|---------------------|-------------|
| DOCUMENT TYPE POLICY DIRECTIVE | EFFECTIVE DATE 07/09/07 | NUMBER 01.01.140 | PAGE 3 OF 4 |
|-----------------------------------|----------------------------|---------------------|-------------|

assault. The EPT member or designee shall similarly immediately notify the Administrator of the Internal Affairs Division.

- J. If a case is based solely on factual allegations by an offender, the work site administrator or designee shall provide the Internal Affairs Division with a written summary of the allegations, including any written documentation provided by the offender, as soon as possible but no later than three business days after receipt of the allegation. The Administrator of the Internal Affairs Division will review the matter and instruct the work site administrator or designee on how to proceed, consistent with requirements set forth in this policy.
- K. For each case which falls under the jurisdiction of the Internal Affairs Division, including those for which notice was provided pursuant to Paragraph I, the work site administrator or designee shall complete and send a Complaint Against Employee form (CAJ-307) to the Internal Affairs Division as soon as possible but no later than five business day after receipt of the allegation; however, the form shall be sent in a case based solely on allegations by an offender only as directed by the Administrator of the Internal Affairs Division as set forth in Paragraph J. Whenever an employee has been suspended as a result of the alleged conduct, a copy of the stop order shall be submitted with the form.
- L. Upon referral of a case to the Internal Affairs Division, any Department investigation of the case shall cease until further direction is received from the Administrator of the Internal Affairs Division or designee.

PROCESSING AND INVESTIGATION

- M. The Administrator of the Internal Affairs Division shall review each case referred to determine whether the case will be accepted by the Internal Affairs Division and notify the referring work site supervisor or designee of that decision. If a case is not accepted, the case shall be returned to the referring work site administrator or designee for investigation or other appropriate action.
- N. For each case accepted by the Internal Affairs Division, the Administrator of the Internal Affairs Division shall notify the referring work site administrator or designee if the case will be investigated by Internal Affairs Division investigators or other Department staff. Staff outside the Internal Affairs Division who are assigned to investigate a case shall keep the Administrator of the Internal Affairs Division informed of all major developments in the investigation in the manner directed by the Administrator. Internal Affairs Division staff shall assist with the investigation as deemed appropriate by the Administrator in consultation with the work site administrator or designee.
- O. The Administrator of the Internal Affairs Division shall ensure that all investigations are conducted in a prompt and thorough manner. Investigations of staff overfamiliarity and staff sexual misconduct shall be investigated consistent with the requirements set forth in PD 03.03.140 "Prohibited Sexual Conduct Involving Prisoners". The Administrator of the Internal Affairs Division shall keep the Administrator of the Operations Support Administration and other appropriate EPT members advised on any significant issues that come to his/her attention during the investigation.
- P. The staff person assigned to conduct the investigation shall maintain an investigatory file for the case. The file shall contain all documentation related to the investigation, including any notes and recordings made. Upon completion of the investigation, the file shall be forwarded to the Internal Affairs Division along with a written report of the facts established during the investigation. The Administrator of the Internal Affairs Division shall be responsible for maintaining the official case file once the investigation has been concluded.
- Q. Subject to Paragraph T, the Administrator of the Internal Affairs Division shall review the investigation report and submit a recommendation to the Administrator of the Operations Support Administration and Director as to whether there is sufficient evidence to formally charge the employee with a rule violation. The Director shall make the final determination as to whether charges will be issued in the case. If charges are not issued, it also shall be determined whether there is sufficient evidence upon which to

| | | | |
|-----------------------------------|----------------------------|---------------------|-------------|
| DOCUMENT TYPE POLICY DIRECTIVE | EFFECTIVE DATE 07/09/07 | NUMBER 01.01.140 | PAGE 4 OF 4 |
|-----------------------------------|----------------------------|---------------------|-------------|

conclude that the allegations are unfounded.

- R. The Administrator of the Internal Affairs Division shall ensure that the appropriate work site administrator is notified in writing of the Director's decision. The Administrator also shall ensure that the employee who was investigated is notified in writing that the investigation was conducted and the disposition of that investigation unless disciplinary charges are to be issued. If disciplinary charges are to be issued, the employee shall receive notice of the charges and a hearing as set forth in PD 02.03.100 "Employee Discipline".
- S. The Administrator of the Internal Affairs Division shall ensure a case tracking system is maintained to identify and monitor the status of all cases accepted by the Internal Affairs Division. The Administrator of the Internal Affairs Division shall inform the Director or designee of the status of each case on the case tracking system on a schedule to be determined by the Director or designee. Other administrative and management staff shall be advised of the status of such cases as determined by the Director or designee.

Sexual Misconduct Review Committee

- T. There shall be a Sexual Misconduct Review Committee, which shall be chaired by the Administrator of the Operations Support Administration or designee. The Committee shall include the Administrator of the Internal Affairs Division, the Administrator of the Office of Equal Opportunity and Recruitment, the affected Deputy Director, and if applicable, the CFA Special Administrator. The Committee shall be responsible for reviewing all completed investigation reports involving staff sexual misconduct prior to referral to the Director pursuant to Paragraph Q; cases shall be referred to the Director only with the concurrence of the Committee. If the Committee determines additional investigation is necessary, the investigation shall be completed and the case returned to the Committee for review prior to referral to the Director.

OPERATING PROCEDURES

- U. The FOA Deputy Director, the Administrator of the Internal Affairs Division, and Wardens shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive. Procedures shall be completed within 60 calendar days after the effective date of this policy directive. This includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed. Facility procedures shall not conflict with procedures issued by the Director.

AUDIT ELEMENTS

- V. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist EPT members, Administrative Management Team members, and Wardens with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

Approved: PLC 06/13/07